

1 Lee Aronson, OSB #77100  
E-mail: [laronson@schulte-law.com](mailto:laronson@schulte-law.com)  
2 SCHULTE, ANDERSON, DOWNES,  
ARONSON & BITTNER, P.C.  
3 811 Southwest Naito Parkway, Suite 500  
Portland, Oregon 97204-3379  
Telephone: 503.223.4131  
4 Facsimile: 503.223.1346

5 Stephen G. Skinner, WSBA #17317  
E-mail: [stephen.skinner@johnsonandrews.com](mailto:stephen.skinner@johnsonandrews.com)  
6 JOHNSON ANDREWS & SKINNER, P.S.  
200 West Thomas Street, Suite 500  
7 Seattle, WA 98119  
Telephone: 206.223.9248  
8 Facsimile: 206.623.9050

9 Attorneys for Defendant National Union Fire Insurance Company of Pittsburgh, Pa.

10  
11 IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF OREGON

12 KNOWLEDGE LEARNING  
CORPORATION, a foreign business  
13 corporation; KINDERCARE LEARNING  
CENTERS, INC., a foreign business  
14 corporation,

15 Plaintiffs,

16 v.

17 NATIONAL UNION FIRE INSURANCE  
COMPANY OF PITTSBURGH, PA. a  
foreign insurance company; DISCOVER  
18 PROPERTY & CASUALTY INSURANCE  
COMPANY, a foreign insurance company,  
19

20 Defendants.

CV 10-00188-ST

DECLARATION OF STEPHEN G.  
SKINNER FILED IN SUPPORT OF  
OPPOSITION TO PLAINTIFF'S PETITION  
FOR ATTORNEYS' FEES AND BILL OF  
COSTS

21  
22 DECLARATION OF STEPHEN G. SKINNER  
FILED IN SUPPORT OF OPPOSITION TO  
PLAINTIFF'S PETITION FOR ATTORNEYS'  
FEES AND BILL OF COSTS [CV 10-00188-ST]

JOHNSON ANDREWS & SKINNER, P.S.  
200 W. THOMAS, SUITE 500, SEATTLE, WA 98119  
PHONE: 206-223-9248/ FAX: 206-623-9050

1 I, Stephen G. Skinner, hereby declare as follows:

2 1. I am over the age of 18. I have personal knowledge of the facts set forth herein, and  
3 am competent to testify thereto.

4 2. I am one of the attorneys of record for National Union Fire Insurance Company of  
5 Pittsburgh, Pa. ("National Union"), in the above-referenced matter.

6 3. After being sued in this declaratory judgment action, National Union appeared in the  
7 lawsuit, filed an answer and participated in the cross-motions filed by Plaintiffs and National Union  
8 on the number of occurrences issue.

9 4. To date, there has been no discovery in this lawsuit, since the case was focused on a  
10 discrete legal issue.

11 5. After the court granted summary judgment in favor of Plaintiffs, Plaintiffs presented  
12 the costs it incurred defending the remaining underlying Florida abuse claims and requested that  
13 National Union stipulate to that amount for the purposes of a final judgment. The underlying  
14 defense costs were not part of the initial motions for summary judgment, which addressed the  
15 number of occurrences.

16 6. After reviewing the alleged defense costs and seeking some clarification, National  
17 Union stipulated to the form of the final judgment, including the amount of the defense costs.

18 7. After receipt of Plaintiffs' Petition for Attorneys' Fees and Bill of Costs and  
19 supporting documentation, we reviewed the Plaintiff's legal invoices. We subsequently sorted the  
20 claimed legal fees by case activity to determine how much Plaintiffs allegedly incurred on these  
21 activities.

22  
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8. Attached as Exhibit A is a true and correct copy of a table breaking down the Plaintiffs' legal invoices by case activity.

9. In addition to analyzing the Plaintiffs' legal invoices by case activity, we also identified billing entries that are vague, ambiguous and are not self-evidently part of "the costs of the action" to secure rights under an insurance policy. We found entries totaling \$6444 that fell into this category.

10. In defending this declaratory judgment action, which includes answering the initial complaint, responding to Plaintiffs' Motion for Summary Judgment, filing its own cross-motion on the occurrence issue, presenting oral argument on the cross motions, responding to the objections to the Magistrate's Findings and Recommendations and addressing issues relating to the final judgment, National Union has incurred less than \$20,000 in legal fees and costs.

I declare under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct.

DATED this 28<sup>th</sup> day of February, 2011, at Seattle, Washington.

JOHNSON ANDREWS & SKINNER, P.S.

By /S/ Stephen G. Skinner  
 Stephen G. Skinner, WSBA #17317 (*pro hac vice*)  
 E-mail: [stephen.skinner@johnsonandrews.com](mailto:stephen.skinner@johnsonandrews.com)  
 200 W. Thomas St., Suite 500  
 Seattle, Washington 98119  
 Telephone: 206.223.9248  
 Facsimile: 206.623.9050  
 Attorneys for Defendant National Union Fire  
 Insurance Company of Pittsburgh, Pa.

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**CERTIFICATE OF SERVICE**

I hereby certify that on February 28, 2011, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to all attorneys of record.

JOHNSON ANDREWS & SKINNER, P.S.

By: /S/ Stephen G. Skinner  
STEPHEN G. SKINNER, WSBA #17317  
Attorneys for National Union Fire Insurance  
Company of Pittsburgh, PA and AIG  
200 West Thomas, Suite 500  
Seattle, WA 98119  
Telephone: (206)223-9248  
Fax: (206)623-9050  
Email: Stephen.Skinner@johnsonandrews.com

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**EXHIBIT A**

DATE	DESCRIPTION	TIME-KEEPER	TIME
<b>COMPLAINT</b>			
01/22/10	Draft complaint (.8)	LAF	.8
01/25/10	Telephone conference with John Iole and Brian Roy over coverage for new lawsuits in Florida (.6); draft complaint against Discover and NUFI re same (2.7)	LAF	3.3
01/28/10	Revise complaint (.4); email from Brian Roy re same (.2)	LAF	.6
02/01/10	Email from Brian Roy re status (.1); prepare summons (.1)	LAF	.2
02/02/10	Review policies for service of process information (.2); online review of insurance commissioner for Oregon website to locate registered agent information for service of complaint (.1)	MXN	.3
02/18/10	File complaint (.4); telephone call to and emails from Brian Roy re same (.3)	LAF	.7
02/26/10	Serve Summons and complaint (.2); research law re policy interpretation (.2)	LAF	.4
03/11/10	Emails re complaint (.1)	LAF	.1
<b>SUMMARY JUDGMENT</b>			
03/03/10	Emails re starting summary judgment motion (.2); office conference re same (.2)	LAF	.4
03/11/10	Analyze insurance policies and underlying complaints for arguments in support of summary judgment motion	TWS	3.4
03/12/10	Legal research re argument that multiple lawsuits alleging negligent supervision are one occurrence under insurance policies	TWS	3.3
03/15/10	Legal research for summary judgment motion seeking declaration that multiple lawsuits constitute a single occurrence (7.5); begin drafting summary judgment memorandum (3.3)	TWS	10.8
03/18/10	Office conference with Tim Snider re research into admissibility of extrinsic evidence of contracting parties' intent	SHG	.3
03/19/10	Research admissibility of subsequent revisions to policy as evidence of intent (3.0); draft insert to summary judgment memo re construction of ambiguous provisions (1.0)	SHG	4.0
03/25/10	Emails with Brian Roy re status/summary judgment motion	LAF	.5
03/29/10	Legal research re arguments for dispositive motion on coverage	TWS	1.0

03/30/10	Telephone call to Lee Aronson's office re answer/status (.2)	LAF	.2
03/30/10	Draft summary judgment motion on duty to defend	TWS	3.3
04/01/10	Draft summary judgment motion (1.9); legal research re excess insurers ability to challenge agreed interpretation of policy by primary insurer and insured (.6)	TWS	2.5
04/02/10	Draft summary judgment memorandum	LAF	2.9
04/05/10	Draft summary judgment (.5); email to Brian Roy re same (.1)	LAF	.6
04/26/10	Emails with Brian Roy re status (.1); email from Brian Roy with comments on summary judgment memorandum (.3)	LAF	.4
05/04/10	Revise motion for summary judgment	TWS	1.9
05/04/10	Telephone call from Brian Roy re his lack of communications with NUFI and filing memorandum (.2); office conference re revising memorandum (.3)	LAF	.5
05/05/10	Draft motion for summary judgment (.3); emails re scheduling conference/piling issues (.1)	LAF	.4
05/07/10	Draft summary judgment materials (1.5)	LAF	1.5
05/10/10	Review and collect evidentiary materials for summary judgment motion	TWS	1.6
05/10/10	Revise summary judgment brief	TWS	4.4
05/10/10	Emails re Chartis' motion for summary judgment from John Iole (.2)	LAF	.2
05/11/10	Work on gathering exhibits to declaration in support of motion for summary judgment (1.2); prepare insurance binder (.5)	MXN	1.7
05/11/10	Work on declaration in support of summary judgment (.6)	LAF	.6
05/12/10	Telephone call with Brian Roy re summary judgment record (.2); revise declarations per Brian Roy's request (.3)	TWS	.5
05/13/10	Work on exhibits to declarations in support of motion for summary judgment	MXN	1.3
05/17/10	Work on exhibits to summary judgment declarations (.3); finalize Wood declaration (.1)	MXN	.4
05/17/10	Email correspondence with client re summary judgment evidence (.2); revise declarations in support of summary judgment motion (.2); revise memorandum in support of summary judgment motion (1.0)	TWS	1.4
05/18/10	Draft stipulation and supporting documents for summary judgment (.4); office conference re same (.2)	LAF	.6
05/18/10	Prepare exhibits to declarations	MXN	1.0
05/18/10	Revise declarations in support of summary judgment	TWS	4.3



	motion (.6); draft motion papers (.5); revise summary judgment memorandum (2.7); draft concise statement of material facts (.5)		
05/19/10	Work on summary judgment declaration exhibits (1.5); finalize Wood declaration materials (.2)	MXN	1.7
05/19/10	Telephone call with Discover's counsel re summary judgment motion (.2); email correspondence with client re same (.3); review Pinellas County Court docket for consolidation order to support summary judgment motion (.3); telephone call with Florida counsel re same (.2); review and prepare evidentiary record for filing summary judgment motion (.6); revise motion for summary judgment re same (1.6)	TWS	3.2
05/20/10	File summary judgment	LAF	.3
05/20/10	Work on evidentiary material for summary judgment motion declarations	MXN	.9
05/20/10	Revise memorandum and declarations on summary judgment to include new information (1.2); final review and prepare motion papers for filing (.4)	TWS	1.6
<b>REPLY</b>			
06/22/10	Analyze National Union's cross-motion for summary judgment	TWS	2.5
06/28/10	Draft reply brief in support of motion for summary judgment	TWS	6.2
06/29/10	Telephone call with Discover's attorney re reply brief (.2); draft reply brief (4.0)	TWS	4.2
06/30/10	Draft reply brief on motion for summary judgment	TWS	2.3
07/01/10	Draft reply brief in support of summary judgment motion	TWS	4.0
07/05/10	Work on reply brief	LAF	.8
07/06/10	Draft reply and opposition to NuFi's cross motion for summary judgment	LAF	2.0
07/07/10	Revise reply brief in support of summary judgment motion	TWS	1.8
07/08/10	Revise reply brief in support of summary judgment motion	TWS	.6
<b>REVW OPP</b>	<b>REPLY, PREPARE FOR ORAL ARGUMENT</b>		
07/27/10	Review NUFI's reply memo (.3); office conference re same/oral argument (.2)	LAF	.5
07/27/10	Review defendant's reply in support of cross-motion for summary judgment	TWS	.4
07/30/10	Office conference re oral argument of summary	LAF	.2



	judgment motion		
07/31/10	Prepare for oral argument on motion for summary judgment	TWS	1.6
08/01/10	Prepare for oral argument on motion for summary judgment	TWS	1.0
<b>SJ HEARING</b>			
08/02/10	Summary judgment hearing	LAF	1.7
08/02/10	Oral argument on summary judgment motions	TWS	1.7
08/02/10	Prepare for oral argument on summary judgment motion	TWS	2.7
<b>OBJN TO</b>	<b>MAG HEARING</b>		
09/28/10	Review Judge Stewart's opinion/findings and recommendation (.6); telephone call to Brian Roy re same (.4)	LAF	1.0
09/28/10	Review Court's decision on cross-motions for summary judgment (.6); telephone call with Discover's attorney re same (.6)	TWS	1.2
09/29/10	Outline objections to magistrate judge's findings and recommendations	TWS	1.5
09/30/10	Office conference re magistrate's recommendations (.2); research re construction of policy in favor of insured, reasonable expectation of insured, and context (2.2)	IRC	2.4
<b>OBJECTIONS</b>			
09/30/10	Draft objections to magistrate's recommended order (3.0); legal research re same (2.2)	TWS	5.2
10/01/10	Continue research re construction of policy in favor of insured, reasonable expectation of insured, and context	IRC	3.5
10/01/10	Draft objections to magistrate judge's recommendations on summary judgment	TWS	4.6
10/03/10	Work on objections to Magistrate Judge's recommendations on summary judgment motions	TWS	1.5
10/04/10	Office conference re distinction between definitions of occurrence	IRC	.3
10/04/10	Draft objections to Magistrate Stewart's findings and recommendations	TWS	4.3
10/05/10	Office conference re interpretation of occurrences definition	IRC	.2
10/05/10	Draft objections to recommendations on summary judgment	TWS	6.6

10/06/10	Research re interpretation of insurance contracts and expectations of the insured (1.0); office conference re same (.3)	IRC	1.3
10/06/10	Draft objections to findings and recommendations on summary judgment motions	TWS	5.9
10/07/10	Review and revise objections to magistrate's findings	IRC	.9
10/08/10	Telephone call with Discover's counsel re objections to magistrate's findings and recommendations	TWS	.4
10/09/10	Working on opposition to magistrate's findings and recommendations	LAF	5.2
10/10/10	Revise objections to Magistrate Judge's recommendations on cross-motions for summary judgment	TWS	1.1
10/11/10	Draft opposition (5.4); office conference re same (.3)	LAF	5.7
10/11/10	Revise objections to Magistrate's recommendations on cross-motions for summary judgment	TWS	3.8
10/12/10	Revise objections to magistrate order on summary judgment motions	TWS	1.7
10/13/10	Work on opposition (.5); telephone call to Brian Roy re same (.5)	LAF	1.0
10/13/10	Revise objections to magistrate's order on cross-motions for summary judgment	TWS	.5
10/14/10	Finalize opposition (.4); office conference re same (.2)	LAF	.6
10/14/10	Final revisions to objections to magistrate judge's opinion	TWS	1.5
10/15/10	Revise objections to magistrate's order on summary judgment (1.5); review Discover's brief and provide comments (.6)	TWS	2.1
10/29/10	Review memo in opposition	LAF	.3
11/01/10	Review NUFI's opposition motions (.4); emails re same (.2)	LAF	.6
12/02/10	Review order granting summary judgment motion (.5)	TWS	.5
<b>FORM OF</b>	<b>JUDGMENT</b>		
12/03/10	Telephone call from and telephone call to Brian Roy re attorneys fees and judgment	LAF	.3
12/07/10	Telephone call with Brian Roy re case status and rights against insurer who picks up defense under reservation of rights (.2); review bills and invoices paid in underlying action for damages award (.2)	TWS	.4
12/07/10	Receive and print paid invoices (.2); begin organizing them for preparation of damages amount (.2)	MXN	.4
12/08/10	Draft form of judgment (1.1); telephone calls with client re same (.2); email correspondence with opposing counsel re same (.2)	TWS	1.5

12/08/10	Work on calculation of attorneys' fees and costs for judgment (1.6); emails re same (.2)	MXN	1.8
12/16/10	Telephone call with Steve Skinner re form of judgment and stipulation on attorneys' fees incurred as damages (.1); draft letter to Court re same (.2)	TWS	.3
12/17/10	Calculate unpaid fees and costs in underlying actions (.5); organize and email same (.2)	MXN	.7
1/3/11	Office conference re judgment status	LAF	.1
1/5/11	Telephone call with National Union's attorney re review of KinderCare bills for entry of final judgment	TWS	.1
1/13/11	Email correspondence and telephone calls with opposing counsel conferring on final judgment	TWS	.3
1/14/11	Work on spreadsheet and invoices from underlying cases	MXN	1.9
1/14/11	Office conference re letter to judge/motion	LAF	.1
1/14/11	Draft letter to Judge King re final judgment (.5); draft motion for extension of time re same (.5); telephone call with Steve Skinner conferring on bills for damages award (.6); analyze discrepancies in bills for damages calculation (1.0); analyze insurance policies to determine obligation of insurer to pay defense costs for individual defendants (1.4)	TWS	4.0
1/20/11	Telephone call with Steve Skinner conferring on damages amounts	TWS	.4
1/21/11	Draft motion for entry of judgment (.5); telephone calls and email correspondence re form of judgment (.5)	TWS	1.0
1/21/11	Receive and review emails re damages (.2); telephone call to Stephen Skinner re unopposed motion for entry of judgment (.1)	MXN	.7